

REMARKS

The only issue remaining outstanding in the present application is the rejection under 35 U.S.C. 103. Reconsideration of this issue, in view of the following discussion, is respectfully requested.

Claims 1-3 and 6-8 remain rejected under 35 U.S.C. 103 over Zhou taken with MacFarlane. Applicants again request reconsideration of this rejection. Applicants have previously advanced two basis for withdrawal of this rejection. The first is that there is no prima facie case of obviousness. Applicants refer the Examiner to the discussion in the last paragraph of page 2 of the prior response through the end of the paragraph bridging page 3 of that discussion. These arguments will not be repeated herein, for purposes of brevity. However, it is submitted that the Final Rejection does not respond adequately to this argument.

Instead, the Final Rejection merely criticizes Applicant's previous Declaration Under 37 C.F.R. 1.132, provided to show unexpected results for the presently claimed compounds *in addition* to the above-noted argument. As will be recalled, the declaration shows that the electrochemical window of the compounds of the invention (-3 to +4, as seen from Figure1 of the present application) is far larger than the disclosed electrochemical window of the compound of Zhou, (-2.5 to +2.5). The Office Action's rejection is predicated on the theory that the cations would have equivalent effect, which has been shown in the declaration not to be accurate. However, the Final Rejection argues that it is not possible to determine whether the quoted numbers are expected or unexpected, and moreover not persuasive that the unexpected property is sufficient to confer patentability for the instantly claimed compound.

Attention is directed to the reference of VanSchalkwijk, which was inadvertently omitted from the previous reply. VanSchalkwijk explains how, in molten salts used in lithium ion and related battery systems, possession of good electrochemical stability is necessary for adequate properties in a battery. See page 187. As noted in section 4.3 on page 199, the electrochemical stability of ionic liquids to anodic oxidation and cathodic reduction, called the "electrochemical window", is, in the words of the authors, "extremely important for the functioning of battery couples."

As further discussed at page 189, a composition which is less than neutral has a diminished voltage window, i.e., decreased stability and thus utility in batteries. Thus, Figure 2 at page 190 shows that, for a relatively neutral melt, an acceptable voltage window runs from about 2.4 to -2.4. These are similar values as given in the Zhou reference. Note also Figure 11, showing typical stability from about 2 to about -2. Thus, the electrochemical window of the Zhou compositions, -2.5 to +2.5, is typical in the art – and far inferior to the electrochemical window of -3 to +4 shown for the presently claimed materials. It is thus evident that, not only is the electrochemical window an important parameter, but the substantial increase in the window with the compositions of the invention, considerably larger than that of the prior art, is not only unexpected but highly advantageous. Accordingly, it is submitted that this provides additional basis for withdrawal of the rejection, and the same is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Harry B. Shubin/

Harry B. Shubin, Reg. No. 32,004
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO
& BRANIGAN, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, Virginia 22201
Telephone: (703) 243-6333
Facsimile: (703) 243-6410

Attorney Docket No.: MERCK-3234

Date: July 10, 2009